

HF3757 - 0 - Reporting Fictitious Emergency at Officials' Home

Chief Author: **Lisa Demuth**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **3/26/2024 2:31:35 AM**
 Lead Agency: **Sentencing Guidelines Comm**
 Other Agencies:
 Corrections Dept Public Defense Board
 Supreme Court

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
State Total						
	Total	-	-	-	-	-
	Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 3/26/2024 2:31:35 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

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 Date Completed: **3/26/2024 2:31:35 AM**
 Agency: **Sentencing Guidelines Comm**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 3/22/2024 4:30:33 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

Minn. Stat. § 609.78, subd. 2(2), presently outlaws placing an emergency call and reporting a fictitious emergency with the intent of prompting an emergency police, fire, or medical response (“swatting”). Swatting is a gross misdemeanor unless substantial bodily harm, great bodily harm, or death results, in which case it is a felony under subd. 2a.

The bill creates a new penalty provision, subd. 2c, which defines swatting as a felony, carrying a maximum penalty of one year imprisonment and a \$5,000 fine, if the site of the intended emergency response is the home of an elected official, judge, prosecutor, correctional-facility employee, or peace officer.

The bill is effective August 1, 2024, and applies to crimes committed on or after that date.

Assumptions

According to Minnesota Judicial Branch data, from 2019 through 2023, there were 175 gross misdemeanor swatting convictions under Minn. Stat. § 609.78, subd. 2(2), or 35 per year. It is assumed that the bill will cause some percentage of these gross misdemeanor offenses to become felonies in the future.

That percentage is not known. Because the victim categories in the bill’s felony swatting crime are very similar to the victim categories in the fourth-degree assault crimes defined in Minn. Stat. § 609.2231, subds. 1 & 3, it may be assumed that the ratio of convictions of the bill’s felony swatting crime to convictions of the existing gross misdemeanor crime will be the same as the current ratio of convictions of Minn. § 609.2231, subds. 1 & 3, to convictions of all assaults not involving substantial bodily harm, great bodily harm, or death; *i.e.*, assaults under Minn. Stat. §§ 609.2231 (fourth-degree assault), 609.224 (fifth-degree assault), & 609.2242 (domestic assault). (Due to its unique elements, § 609.2247, domestic assault by strangulation, is excluded from comparison.)

According to Minnesota Judicial Branch data, from 2019 through 2023, there were 17,925 misdemeanor and gross misdemeanor assault convictions under Minn. Stat. §§ 609.2231, 609.224, & 609.2242. Of those, 817 were convictions under § 609.2231, subd. 1 or 3. Because 817 is 4.5 percent of 17,925, it is estimated that 4.5 percent of the 35 annual gross misdemeanor swatting convictions, or two cases, will become felonies under the bill. The remaining 33 cases will remain gross misdemeanors.

It is assumed that due to the COVID-19 health pandemic, the cases sentenced in 2020 and 2021 are not necessarily fair approximations of cases sentenced in the future.

One of the responsibilities of the Commission is to assign severity-level (SL) rankings to new felony offenses passed by the Legislature. The Commission bases its decisions, in part, on the level of harm caused and the culpability of the person. The statutory maximum is also considered.

It is assumed that the Commission will rank the new felony swatting offense under Minn. Stat. § 609.78, subd. 2c, no higher than SL 2, which is at least one SL lower than the existing felony swatting offense in which a fictitious emergency

call results in substantial bodily harm (subd. 2a(2)); and which carries a statutory maximum of imprisonment of not more than three years or to payment of a fine of not more than \$10,000, or both.

It is assumed that the new offense will receive a prison sentence at the same rate as bomb threats under Minn. Stat. 609.713 subd. 2, which is a SL 2, and carries a statutory maximum of imprisonment of not more than three years or to payment of a fine of not more than \$3,000, or both.

According to MSGC Monitoring Data from 2018 through 2022, 8.3 percent (1 of 12 bomb-threat cases) received prison for 21 months (serve 2/3 term of imprisonment = 14 mos.). The remaining 11 cases received probation; of which, 81.8 percent (9 of 11 bomb-threat cases) received conditional confinement as a condition of probation for an average of 98 days pronounced (serve 2/3 term = 66 days). It is assumed that these rates and durations will apply to the two new swatting sentences that will be caused by the bill each year.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Based on the assumptions above, it is estimated that the long-term fiscal impact will be one prison bed every five years. Allowing time for implementation, it is estimated that the first prison bed will be needed no sooner than FY2025, and every five years thereafter. (With an expected prison rate of 8.3% there will be an additional 0.166 prison sentences per year with an expected average duration of 21 months assuming service of 2/3 of the pronounced sentence (14 mos.); $0.166 \text{ prison sentences} \times 14 \text{ mos. to serve} = 2.3 \div 12 \text{ mos.} = 0.19 \text{ prison beds}$, or approximately one bed every five years.)

Local Fiscal Impact

Based on the assumptions above, it is estimated that the local government impact from felony sentences will be one local bed every four years. Allowing time for implementation, it is estimated that the first bed will be needed no sooner than FY2025, and every four years thereafter. (There will be 1.83 felony probation cases sentenced annually; and with 81.8% conditional-confinement rate for an average 98 days assuming service of 2/3 of the pronounced conditional confinement sentence (an average 66 days); $1.5 \text{ people} \times 66 \text{ days to serve} = 99 \div 365 \text{ days} = 0.27 \text{ local beds}$, or approximately one bed every four years.)

References/Sources

MJB Data, 2019-2023.

MSGC Monitoring Data, 2018-2022.

Agency Contact:

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HF3757 - 0 - Reporting Fictitious Emergency at Officials' Home

Chief Author: **Lisa Demuth**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **3/26/2024 2:31:35 AM**
 Agency: **Corrections Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 3/26/2024 2:25:26 AM
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State Cost (Savings) Calculation Details

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	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

H.F. 3757 establishes a felony penalty of up to one year in prison, a fine of \$5,000, or both if a person reports a false emergency and does so with the intent that emergency responders go to the home of an elected official, judge, prosecuting attorney, employee of a correctional facility, or peace officer.

Assumptions

The Minnesota Sentencing Guidelines Commission (MSGC) assumes that there will be a need for 1 prison bed every five years.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

MSGC anticipates a negligible impact to local units of government.

References/Sources

Department of Corrections Staff

MSGC

Agency Contact:

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HF3757 - 0 - Reporting Fictitious Emergency at Officials' Home

Chief Author: **Lisa Demuth**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **3/26/2024 2:31:35 AM**
 Agency: **Public Defense Board**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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Full Time Equivalent Positions (FTE)	Biennium			Biennium		
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Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 3/14/2024 11:21:45 PM
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State Cost (Savings) Calculation Details

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Biennial Total			-			-
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Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

The bill would provide a one-year felony for an individual who reports a fictitious emergency resulting in response to the home of elected officials, judges, prosecutors, correctional officer or peace officer.

Assumptions

The bill is not expected to generate a significant increase in caseloads or workloads.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

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HF3757 - 0 - Reporting Fictitious Emergency at Officials' Home

Chief Author: **Lisa Demuth**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **3/26/2024 2:31:35 AM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 3/20/2024 5:08:32 PM
Phone: 651-284-6429 **Email:** karen.mckey@lbo.mn.gov

State Cost (Savings) Calculation Details

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Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

The bill modifies Minn. Stat. § 609.78 by adding a new subdivision that enhances the penalties for certain violations of subd. 2(2). Minn. Stat. § 609.78, subd. 2(2) makes it a gross misdemeanor offense to report a fictitious emergency with the intent of prompting an emergency response. The new subdivision would enhance violations of subd. 2(2) to a felony when the act is carried out with the intent to prompt an emergency response to the home of certain officials, specifically: an elected official; a judge; a prosecuting attorney; an employee of a correctional facility; or a peace officer. The bill also makes other conforming changes within Minn. Stat. § 609.78.

Assumptions

Because the underlying behavior addressed in this bill is already prohibited by Minn. Stat. § 609.78, subd. 2(2), it is assumed that the bill would not result in increased criminal case filings. Based on judicial branch data, it is assumed that the judge and staff time needed to process felony cases charged under the provisions of this bill would increase compared to the judge and staff time needed to process gross misdemeanor violations of Minn. Stat. § 609.78, subd. 2(2).

Expenditure and/or Revenue Formula

Based on five years of judicial branch data (2019-2023) there were a total of 175 criminal charges filed statewide alleging a violation of Minn. Stat. § 609.78, subd. 2(2). If each of those charges constituted a separate criminal case filing, that would amount to an annual statewide average of 35 cases per year.

Even if 100% of the cases that could be charged under Minn. Stat. § 609.78, subd. 2(2) were charged out as felonies under the provisions of this bill, that would be a maximum of 35 cases statewide that would require additional judge and staff time for processing.

It is anticipated that this bill will not have a significant fiscal impact on the judicial branch.

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

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